

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Access Charge Reform for Incumbent) CC Docket No. 98-77
Local Exchange Carriers Subject to)
Rate-of-Return Regulation)

COMMENTS

The National Exchange Carrier Association, Inc. (NECA)¹ herein files its comments responding to the Commission's *Notice of Proposed Rulemaking* in the above captioned matter.²

I. The Commission Should Not Move Forward with Access Reform for Rate of Return Companies Until The Effects of Separations Reform and Universal Service Rule Revisions are Evaluated.

NECA's pool participants are very concerned about the potential effects of imposing access charge rule revisions on rate of return (ROR) companies at this time. Substantial uncertainty exists with respect to the effects of universal service rule revisions on rural companies, and the impacts of separations reform. Increased subscriber line charges (SLCs) and presubscribed interexchange carrier charges (PICCs) could have adverse effects on service in rural areas. For the 1999/2000 tariff period, for example, NECA estimates that using the price

¹ NECA is a private Delaware corporation, a not-for-profit association of over 1,000 independent local exchange carriers. Pursuant to the Commission's Part 69 rules (47 C.F.R. Part 69), NECA directly administers interstate access charge tariffs and revenue pools on behalf of its exchange carrier members, as well as various federal and state support programs, among its other activities.

² Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation, *Notice of Proposed Rulemaking*, FCC 98-101, CC Docket No. 98-77, (rel. June 4, 1998) (NPRM).

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cap carrier SLC and PICC rules would result in a ROR SLC for multi-line businesses that immediately reaches the \$9.41 cap (adjusted for inflation as provided in rules), a PICC at \$4.33, and a “blended” CCL at \$0.0118.³ When combined with the potential effects of separations reform and universal service changes, such increases could have serious adverse effects on universal service in rural areas.

Differences in cost characteristics between price cap and ROR LECs also warrants different treatment of traffic sensitive costs. For example, regardless of how SLC and PICC “caps” are set, transferring additional costs (*i.e.*, residual transport interconnection charge (TIC) costs or line-side switch port costs) to the CL category would not accomplish the Commission’s goals for ROR companies in the foreseeable future. Under current rules, the additional revenue requirements associated with the TIC or line-side port costs would simply be added to NECA’s CCL rate, regardless of how SLC and PICC caps are set, and would simply substitute one minute-of-use (MOU) charge for another. Transfer of TIC revenue requirements or line-side port costs to the CL category will necessarily increase NECA CCL charges, even while price cap companies’ CCL rate move towards zero. This would increase current rate disparities between ROR and price cap LECs, with potential adverse impacts on universal service.⁴

³ The “blended” CCL rate is for both originating and terminating usage, and does not include TIC revenue requirements.

⁴ The Commission itself has pointed out the importance of keeping the NECA pool’s CCL stable, and that it wasn’t the Commission’s intent for the pool CCL to change as a result of universal service or access charge rule changes. *See Access Charge Reform, Second Order on Reconsideration*, 12 FCC Rcd 16606, 16635 (1997); Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd 8776, 9165-66, 9169-70 (1997). Should the Commission nevertheless determine that line-side port costs be transferred to the CL category prior to completion of universal service proceedings and separations reform, it should ensure that

For these reasons, NECA recommends that the Commission defer implementation of new ROR access rules until the combined effects of universal service rule revisions and separations reform are known. As NECA has pointed out in recent universal service proceedings, there are outstanding universal service issues that the Commission needs to resolve that will impact NECA's access rates. For example, the Commission plans to replace existing universal support mechanisms for non-rural carriers with a single forward-looking cost mechanism effective July 1, 1999. It is not clear what effects this process will have on NECA access rates, though NECA anticipates that any reductions in support levels for these carriers could result in substantially higher NECA CCL rates.⁵

The results of separations reform must be considered as well. Changes to separations rules could move more revenue requirement to the local jurisdiction, thereby increasing pressure on local rates. Adding local rate increases to increased end user charges the Commission proposes in this docket could have a significant, negative impact on universal service.

NECA recommends that the Commission defer implementation of access reform for rate of return companies until the combined effects of the changes brought about in these fundamental proceedings are known. Increased SLC caps and any new PICC caps could be

this action not cause inadvertent reductions in local switching support levels, which currently are calculated based on local switching revenue requirements. *See* 47 C.F.R. § 54.301.

⁵ *See* NECA Comments at 3, 6 (May 15, 1998), NECA Replies at 2-3 (May 29, 1998), Common Carrier Bureau Seeks Comment on Proposals to Revise the Methodology for Determining Universal Service Support, *Public Notice*, DA 98-715 (April 15, 1998); NECA Comments at 2-3 (June 1, 1998), Common Carrier Bureau Requests Further Comment on Selected Issues Regarding the Forward-Looking Economic Cost Mechanism for Universal Service Support, *Public Notice*, DA 98-848 (May 4, 1998).

reached immediately for ROR LECs, having potentially negative consequences for rural economies. Waiting until resolution of the universal service costing issues and separations reform will allow the Commission and industry to gather data on the effects of access reform on price cap companies, and then analyze them in the context of access reform for ROR LECs.

II. The Commission Should Consider a Variety of Options for ROR Access Reform

The Commission seeks comment, generally, on the applicability of the rate structure modifications adopted for price cap LECs to ROR LECs.⁶ However, the NPRM recognizes that ROR LECs may have different characteristics than price cap carriers, and that these differences may warrant different approaches to achieving an efficient, competitive marketplace.

NECA agrees. Applying uniform, nationwide cost recovery approaches to all ROR LECs may negatively impact the goals of universal service. The Commission should instead consider a variety of alternatives for ROR access reform. For example, the Commission could determine that these carriers should continue to recover substantial portions of CL costs through CCL rates, and therefore leave SLC caps unchanged for these companies. Or, the Commission might consider using an average of price cap carrier SLC and PICC charges to “cap” ROR LEC SLC and PICC charges.⁷ Should the Commission choose this latter approach, it should provide for a transition to the price cap average over a three- to five-year period to avoid rate shock.⁸ This

⁶ NPRM at ¶ 36.

⁷ NECA estimates that this approach would result, in tariff year 1999/2000 for example, in a ROR SLC for multi-line businesses of \$7.14, a PICC at \$3.64, and a “blended” CCL rate at \$0.0179.

⁸ The price cap average will increase over time, so it is especially important to provide a measured transition period to avoid overly large, instant increases.

latter methodology might better maintain parity among carrier end user rates, and would not have the negative impact on universal service goals or rural economies that immediate implementation of the Commission's price cap rules could cause.⁹

The Commission might also consider approaches that would allow ROR carriers to increase SLCs and impose PICCs based on evaluation of individual circumstances. In some cases, carriers might find it possible (after evaluating the impacts of universal service and separations reform proceedings) to recover higher portions of non-traffic sensitive costs via flat-rated charges, without significantly harming universal service in their areas. Rule revisions that would permit these carriers to proceed with implementing access reform could accomplish the Commission's goals in this proceeding without harming carriers and customers located in more rural and remote areas.

Regardless of the approach the Commission may take, NECA recommends that the Commission not require ROR LECs to impose different SLCs and PICCs on customers' primary and secondary lines. Instead, *all* residential SLCs should remain at the current \$3.50 per line. As NECA and numerous other parties indicated in the *Price Cap Access Charge Reform* proceedings, any distinction between numbers of lines per subscriber would significantly burden small, ROR LECs in their administration of customer accounts, potentially causing a variety of

⁹ Setting caps at regional rates creates administrative complexities without attendant benefits. Nationwide averages are simpler for both the Commission and the industry to administer, and are consistent with the nationwide averages used for calculating high cost support.

other problems.¹⁰ ROR LECs would have to attempt to determine the nature of their customers' various telecommunications connections and living arrangements, a difficult if not impossible task in an era of much greater mobility, multiple-single-adult households and other alternative living arrangements.¹¹

Secondary access lines are often used for Internet access, fax machines, and other advanced telecommunications services. Keeping SLCs and PICCs on secondary lines as low as possible will encourage continued growth in deployment of secondary lines, and will also encourage expanded access to the Internet and other high-technology services. Conversely, increasing the costs of secondary lines could significantly deter demand for secondary lines in rural areas and slow growth of advanced services in these areas, contrary to the goals of the Telecommunications Act of 1996.¹²

Finally, NECA does not agree with the Commission's proposal to reallocate additional GSF costs to the B&C category.¹³ Unlike larger price cap companies, ROR LECs generally do

¹⁰ See *NECA Reply*, Access Charge Reform Notice of Proposed Rulemaking, FCC 96-488, CC Docket No. 96-262 (Feb. 14, 1997 at 7-8).

¹¹ The Commission has recognized difficulties encountered by price cap LECs in differentiating primary from secondary lines. See *Defining Primary Lines, Notice of Proposed Rulemaking*, FCC 97-316, CC Docket No. 97-181 (rel. Sept. 5, 1997). In this *NPRM*, the Commission tentatively concludes that identifying primary residential lines will require: (1) identification of the primary subscriber, residence, or household (depending on the definition adopted); (2) identification of the primary residence of the subscriber or household; and (3) identification of the primary line, and of the incumbent LEC and interexchange carrier serving that line. *NPRM* at ¶ 8.

¹² See 47 U.S.C. § 254(b).

¹³ *NPRM* at ¶ 82.

not perform their own billing functions but instead rely on the services of outside vendors.

Allocating additional GSF costs to the B&C category would thus result in underrecovery of these costs by small ROR LECs.

III. The Commission Must Provide Sufficient Time to Implement Any Future Rate Structure Changes.

Whatever path the Commission eventually takes, it should allow adequate time for interested parties to study proposed approaches, and for affected companies to work with the Commission on refining those approaches. This proceeding involves complex regulatory issues which, as discussed above, are necessarily tied to other proceedings with potentially significant combined impacts on the over 1,000 small telephone companies nationwide that have traditionally provided universal service. Time to consider new approaches and their impacts, rather than simply applying potentially ill-fitting price cap rules, would allow the Commission to best meet the pro-competitive, de-regulatory principles of the 1996 Act without unnecessarily burdening small, incumbent LECs and disturbing the Act's universal service principles.

Even after current separations reform and universal service issues are resolved, the Commission must provide sufficient time to implement the new rate structures contemplated in this proceeding. Many of the proposals advanced in the NPRM will require substantial implementation effort by ROR carriers. For example, in order to transfer line-side port costs to the CL category, ROR LECs would be required to conduct cost studies to determine the geographically-averaged portion of local switching costs that is attributable to line-side ports.¹⁴

¹⁴ NPRM at ¶ 54.

These cost studies will take time, and a surrogate may be necessary if the transfer is mandated prior to completion of the cost studies.

NECA also anticipates that, in order to implement the rate structure changes proposed in this proceeding, it will likely need to collect data from CL pool members who file their own TS tariffs; develop new procedures to track and forecast rates; and collect new types of demand and cost data. Timing is a particular issue for average schedule companies because, under the Commission's rules, average schedule formula changes must be filed in December to become effective the following July. Thus, rule revisions must be finalized as early as possible in a given year, for implementation midway through the following year.

In some areas, immediate implementation of simplified rules may make sense. For example, the Commission has already streamlined the Part 69 waiver process for price cap LECs wishing to offer new services.¹⁵ In its NPRM, the Commission proposes to implement these procedures for ROR LECs as well.¹⁶

NECA agrees that this flexibility should be granted to all LECs. This will allow expedited delivery of services to customers, and free the Commission from reviewing repetitive petitions for waiver, allowing it to concentrate on more complex issues included in this docket. NECA also agrees with the Commission's proposals to allow ROR LECs to apply a SLC for

¹⁵ *Id* at ¶ 94, citing Price Cap Performance Review for Local Exchange Carriers, *Third Report and Order*, 11 FCC Rcd 21354, 21490 ¶¶ 309-310 (1996). The streamlined waiver process is available when a price cap LEC can demonstrate either that: another LEC has previously obtained approval to establish an identical rate element and that the original petition did not rely upon a competitive showing as part of its public interest justification; or that the new rate element would serve the public interest. *Id*.

¹⁶ NPRM at ¶ 95.

primary rate ISDN service equal to five times the ROR LEC's multi-line business SLC, and to eliminate the current procedures where LECs may charge any amount between no SLC and 23 multi-line business SLCs.¹⁷ This change would better align SLC revenues for ISDN with the costs of the service.

IV. Conclusion

NECA recommends that the Commission defer implementation of access reform for rate of return companies until the combined effects of the changes brought about in the universal service, separations reform and access reform proceedings are known. Deferral of specific rule changes will allow the Commission and industry to gather data on the effects of these changes on companies and their customers, and will help avoid adverse impact on universal service.

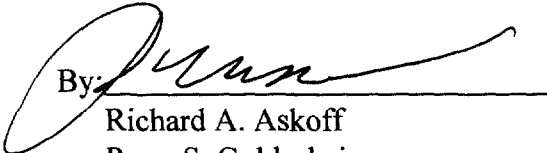
As the Commission moves forward with these fundamental proceedings, it should consider a variety of options for access charge reform, including the use of different "caps" approaches for ROR SLCs and PICCs. The Commission should also consider rule revisions that would permit individual ROR LECs to introduce specific access reform initiatives at different times, depending on individual circumstances. Finally, the Commission should allow ROR LECs adequate time to prepare for implementing access reform changes, including time to prepare necessary cost studies and to develop alternative revenue recovery methods where

¹⁷ *Id* at ¶¶ 46-48.

required. NECA agrees, however, that streamlining of the process for introducing new services and proposed changes to ISDN rates should be implemented immediately.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, Inc.

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August 17, 1998

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served this 17th day of August, 1998, by hand delivery or by mailing copies United States Mail, first class postage paid, to the persons listed below.

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